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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/611,054	07/06/2000	Tom Gray	481340010023	5057
7590		01/24/2007	EXAMINER	
David B Cochran Jones Day Reavis & Pogue North Point 901 Lakeside Avenue Cleveland, OH 44114			KARMIS, STEFANOS	
			ART UNIT	PAPER NUMBER
			3691	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	01/24/2007	PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/611,054	GRAY ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Stefano Karmis	3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 November 2006.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-36 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-12, 14-30 and 32-36 is/are rejected.  
 7) Claim(s) 13 and 31 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

1. The following communication is in response to Applicant's amendment filed 03 November 2006.

***Status of Claims***

2. Claims 1 and 19 are currently amended. Claims 1-36 are currently pending.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12, 14-30 and 32-36 were rejected under 35 U.S.C. 103(a) as being unpatentable over Delp et al. (hereinafter Delp) in view of Johnson et al. (hereinafter Johnson) U.S. Patent 6,005,925.

Regarding independent claims 1 and 19, Delp teaches a method and system for service allocation among a plurality of entities requiring service allocation in a communications or computing environment in which a supply of services is initialized for one or more holding entities and endowing one or more entities with a fixed amount of utility and a requirement for

an amount of said supply of services, wherein said fixed amount of utility represents less than, equal to, or more than the amount of said supply of services the entity could require to function at a particular time, said fixed amount of utility thereby also represents the possibility of failure due to lack of resources (column 4, lines 13-49); negotiating said supply of services of said holding entities, with each receiving a selected amount of its said fixed amount of utility and redistributing said supply of said holding entities among said entities based on said negotiating (column 3, lines 49-65 and column 4, lines 13-49). Delp fails to teach that the entity is a bidding entity for resources. Johnson teaches bidding for telecommunications traffic over routed segments (column 6, lines 17-65). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the charging for use teachings of Delp and include a bidding entity because it is an efficient manner to price a resource on a supply/demand basis for the shared resources assigned in Delp.

Claims 2 and 20, the supply of services are comprised of a plurality of resources (column 5, lines 1-10).

Claims 3 and 21, the resources are available at multiple service levels (column 4, lines 13-49).

Claims 4 and 22, initializing, endowing, negotiating and redistribution operate dynamically in response to a change in supply of services, fixed amount of utility or requirement for supply of services (column 4, lines 13-49).

Claims 5 and 23, the redistribution of the supply represents a guarantee of service (column 4, lines 13-49).

Claims 6 and 24, the resources are one or more physical devices (column 3, lines 14-29).

Claims 7-8 and 25-26, the multiple service levels include varying levels of quality and capacity (column 5, line 40 thru column 6, line 12).

Claims 9 and 27, the multiple service levels are determined by resource sets (column 4, lines 13-49).

Claims 10 and 28, the redistribution is done deterministically (column 4, lines 13-49).

Claims 11 and 29, the redistribution is done statistically (column 1, line 57-67).

Claims 12 and 30, the redistribution are based upon a proportion of supply held by the holding entity using a holding price (column 5, line 40 thru column 6, line 12).

Claims 18 and 36, the physical devices are a plurality of telephones, telephone interface circuits, trunk interface circuits, telephone lines and telephone switches for establishing or maintaining a voice or data communication (column 3, lines 14-27 and column 4, lines 50-67).

Claims 15-17 and 33-35, Delp and Johnson fail to teach that each bidding entity, supply of services and holding entities are represented by agents. Official Notice is taken that representing agents are old and well known in the computer arts. Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of Delp and Johnson and include agents because they would make it more efficient for the entities by managing their resource expectations.

*Allowable Subject Matter*

5. Claims 13 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

6. Applicant's arguments, with respect to the rejection of claim 19, under 35 U.S.C. 101 have been fully considered and are persuasive. The rejection of claim 19 has been withdrawn.

7. Applicant's arguments with respect to the rejection of claims 1-36 under 35 U.S.C. 103(a) have been fully considered but they are not persuasive.

Regarding claims 1 and 19, Applicant asserts that Delp in view of Johnson does not teach a fixed amount of utility that represents less than, equal to, or more than the amount of said

supply of services the entity could require to function at a particular time. The Examiner respectfully disagrees. Having a fixed amount of that represents "less than, equal to, or more than the amount of said supply of services the entity could require at a particular time" would be taught by any amount of utility required. Any amount of utility would be less than, equal to or more than an amount required. Delp teaches that the computer communications network has at least two pools of resources and that each user has a designated low threshold and high threshold (column 4, lines 12-23). Delp further teaches that the dedicated pool (fixed amount) provides a guaranteed pool of resources and contains enough to match the total of all of users low threshold (column 4, lines 38-49). This amount is clearly "less than, equal to, or more than an amount of supply of services an entity would require to function.

Applicant also asserts that Delp in view of Johnson fails to teach that the fixed amount of utility represents the possibility of failure due to a lack of resources. As mentioned above, Delp teaches that the dedicated pool (fixed amount) provides a guaranteed pool of resources and contains enough to match the total of all of users low threshold (column 4, lines 38-49). By having a low threshold, the entity is establishing a guaranteed minimum, which acts as a 0% chance of failure.

### *Conclusion*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

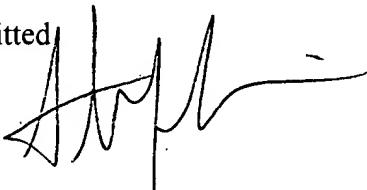
MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (571) 272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted  
Stefano Karmis  
18 January 2007



HANI M. KAZIMI  
PRIMARY EXAMINER